United Nations CERD/C/BGR/CO/20-22/Add.1

International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
8 June 2018

Original: English
English, French and Spanish only

Committee on the Elimination of Racial Discrimination
Ninety-sixth session
6–30 August 2018
Item 7 of the provisional agenda
Follow-up procedure

Concluding observations on the combined twentieth to twenty-second periodic reports of Bulgaria

Addendum

Information received from Bulgaria on follow-up to the concluding observations*

[Date received: 31 May 2018]

* The present document is being issued without formal editing.

Information about the measures taken by the Republic of Bulgaria in implementing the recommendations referred to in paragraph 10 (a) (strengthening the capacity of the national human rights institutions) and paragraph 22 (migration governance)

Information referred to in paragraph 10 (a)

1. In 2011, the UN Sub-Committee on Accreditation assessed the Ombudsman Act and the Ombudsman's Statute and Organization Rules and accredited the institution with status B. Since 2016, the national Ombudsman has begun a procedure for raising his status, with a view of improving the mechanisms for protection of the rights and freedoms of Bulgarian citizens.

2. The Ombudsman proposed specific changes to the national legislation, in order to respond to the recommendations of the report of the UN Sub-Committee on Accreditation. During a meeting of the National Coordination Mechanism for Human Rights on 31 October 2016, a decision was taken to support the Ombudsman's initiative to apply for status A, with proposals for amendments to the Ombudsman Act and the Rules of Procedure. The proposed amendments were submitted to the Council of Ministers with a joint report by the Minister of Justice and the Minister of Foreign Affairs.

3. The Council of Ministers approved the proposals and submitted them to the National Assembly. On 22 February 2018, the Parliament promulgated the amendments in the Ombudsman Act.

4. With the adoption of the proposed amendments to the Ombudsman Act, the Ombudsman will be able to work in accordance with the highest human rights standards, to ensure effective protection of the rights of Bulgarian citizens, including against violations in the private sector, and to observe and promote the compliance with international instruments for the protection of human rights within the UN. The introduction of clear and transparent rules for appointment and the guarantee of pluralism in the institution will further contribute to a better level of protection of human rights and fundamental freedoms.

5. The Ombudsman has sent information on the progress achieved since 2011 to the UN Sub-committee on Accreditation and is currently undergoing a re-accreditation procedure.

Information referred to in paragraph 22

6. The observance and implementation of universal human rights and fundamental freedoms is one of the cornerstones of the domestic and foreign policies of the Republic of Bulgaria. Bulgaria, as a responsible member of the international community, an EU Member State and a state party to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol, strictly observes its commitments towards asylum seekers and migrants.

(a) Principle of non-refoulement

7. Following the unprecedented pressure of mixed migration and asylum flows faced by the Republic of Bulgaria at the end of 2013, urgent measures needed to be taken in order to meet the challenges of the crisis. The Bulgarian Government is constantly improving its national procedures, while bearing in mind that the protection and surveillance of the state border is a legally binding obligation. Nevertheless, we are strictly observing the non-discrimination and non-refoulement principles, defined in the 1951 Convention, the Charter of Fundamental Rights of the EU, the TFEU, the UN Convention on Refugees, the Schengen Borders Code and other related instruments, and we are providing all persons with the possibility to apply for humanitarian protection and asylum.

8. The protection of fundamental human rights is a leading principle for the Bulgarian police and border guards. Preventing cases of violations of fundamental human rights is

priority. In 2016, the Ministry of Interior (MoI) Act was amended and the possibility of carrying out tests about the suitability of the police officers to perform their duties in good faith was introduced. Bulgaria does not tolerate cases of abuse and violence against persons crossing the border. Every signal containing sufficient information is verified and investigated in due course.

9. With regard to the signals received by international organisations and NGOs on violations of human rights, of the non-refoulement principle and of cases of push-backs of foreigners crossing the state borders, all Border Police units were provided with instructions to observe strictly the EU and national legislation related to protection of human rights, access to territory of persons seeking for protection and non-refoulement principle. The return of third country nationals to the territory of a neighbouring state is performed strictly following the existing bilateral readmission arrangements or using the mechanisms of the joint border committees.

10. In order to regulate all applicable tactical actions of the police officers and officers performing tasks related to protection of the state border, an initial instructing (briefing) is performed to get them acquainted with the situation along the border and with the main provisions of the Handbook on fundamental rights prepared by the Frontex Agency. During the daily instructions of the officers deployed at the border, the instructing officers pay special attention to the strict observation of the legislation in the area of border control and the protection of fundamental rights, the procedures for applying for protection pursuant to the Asylum and Refugees Act, and the rules and procedures for use of weapons, auxiliary devices and physical force. There is special focus on the prevention of humiliating behaviour towards foreign nationals, violation of their fundamental rights and illegal taking of their personal belongings. A series of specific methodological guidance and interpretation documents, related to observing the said measures, were sent to the units at the border and their implementation is monitored and controlled daily by high-ranking officers.

(b) Irregular border crossing — legal provisions

11. The national legislation explicitly regulates the cases, in which the crossing of the state border constitutes a crime or an administrative offence. The legal distinction is based on whether the crossing of the border is through the designated places and with the relevant approval of the competent authorities. Under Article 279, Para (1) of the Penal Code, a person who enters or crosses the frontier of the country without a permit from the respective bodies of the government or, though with a permit, but not through the places specified for that purpose, shall be punished by imprisonment for up to five years and by a fine of between 100 and 300 BGN. Administrative responsibility for offences connected with border crossing is explicitly regulated in provisions of the Foreigners in the Republic of Bulgaria Act, as long as the act does not constitute a crime. An exception from criminal prosecution for crossing the border is stipulated in Article 279, Para (5) of the Penal Code: No one shall be punished who enters the country to avail himself of the right of asylum in accordance with the Constitution.

(c) SAR funds and financial support for all asylum seekers residing in reception centres

12. In 2017, there was a significant reduction in the refugee pressure to the Bulgarian borders due to the successful implementation of the 2016 EU-Turkey agreement. Nevertheless, the State Agency for Refugees' (SAR) staffing, which was increased following the refugee flows, remained outstanding. The State Budget for 2017 does not provides for an increase of the budget programme "Asylum and refugees". Nevertheless, in 2017, SAR was designated as a beneficiary of a number of EU programs and projects and international agreements for cooperation. An increase of a half of million leva was foreseen in the 2018 budget.

(d) Identification of persons in vulnerable situation

13. The identification of special needs of persons seeking international protection begins at the earliest possible stage. Interpreters from rare languages have been provided, including, in case of necessity of medical and psychological consultation. An electronic

registry for immediate registration of persons with special needs, vulnerable and unaccompanied minors is put into operation. A mechanism for accelerated transfer of foreigners from the vulnerable groups to the SAR has been established.

14. In 2017, some of the tools for working with vulnerable categories of persons have been updated to include a form for identification and needs assessment; a plan for the work of the social expert; a social consultation form; a form for rapid assessment of the best interest of the child; a form for a full assessment of the child's best interest; etc.

15. The Agency's efforts in 2017 were primarily aimed at creating an appropriate environment for protecting children seeking international protection from physical, psychological and sexual abuse. According to the Asylum and Refugee Act, unaccompanied minors and other minor foreigners are placed until their majority with family and relatives, foster families, specialized institutions and other places designated for minors. In the Reception and Registration Centre in Sofia, there is a protected zone for unaccompanied minors with a separate entrance and security.

16. In order to respect the best interests of the child, the Agency gives priority to:

- Screening of the arrivals, so that unaccompanied and separated children can be identified quickly by applying a presumption of underage until the outcome of the age determination procedure;
- Separation of those who appear to be minors from adults they are not related to, in order to reduce the risk of future human trafficking and/or other possible forms of abuse, exploitation and violence;
- Guaranteed referral to a place for temporary accommodation, for the purpose of providing basic medical, social and psychological care and support;
- Provision of basic information and advice in a child-friendly manner and in a language that the child can understand, about the international protection procedure and/or, where appropriate, procedures for victims of trafficking in human beings, as well as other opportunities, including voluntary return;
- Ensuring guidance for institutions responsible for child protection as well as specialized services, including psychosocial consultations, if necessary; and
- Ensuring access to education as soon as possible.

17. In 2017, the Agency introduced a procedure according to which social experts prepare a rapid and complete assessment of the best interests of the child. Employees have undergone specialized training to this end. A social expert of SAR is present at the time of registration and medical examination. Every employee is responsible for a number of unaccompanied children and is in daily contact with them, conducting social interviews, individual counselling and group information sessions, to be able to identify their individual needs. The key questions of the interviews are related to background, family environment, medical, educational and everyday needs. On the basis of the assessments made, the necessary actions are taken to support and target unaccompanied children according to their individual needs.

18. Furthermore, a Mechanism for interaction between institutions and organisations, in case of unaccompanied children or children separated from their families on the territory of the Republic of Bulgaria, including children seeking and / or receiving international protection, has been established in March 2017. This Mechanism is to ensure the rights of unaccompanied minors and juveniles and the observance of their best interests, by creating conditions for their protection against physical and psychological violence, ensuring their right to life and development, avoidance of harm not their dignity and discrimination. The Mechanism contributes to the effective coordination and consistency in the implementation of the specific obligations of all actors (state institutions, organisations, NGOs) involved. It also seeks to clarify and share the responsibilities, procedures and approaches of all relevant institutions and organisations in the implementation of this mechanism. The application of this system of inter-institutional approach facilitates the complex, rapid and effective follow-up of individual cases of unaccompanied foreign children and children separated from their families.

(e) Alternatives to detention, capacity and material conditions of reception centres, basic services

19. Since 2013, the asylum granting capacity of our country has significantly improved — the capacity of the reception centres has been increased and the living conditions standards in all existing accommodation places are being constantly improved. The access to basic services, with particular reference to access to education, health care, justice and language training, vocational training has been strengthen.

20. The number of the Reception centres of the SAR increased from 3 to 7. The total capacity of the SAR for accommodation of asylum seekers reached 6,000 beds, meeting the minimum standards of the EU. There is also a possibility for refugees to be accommodated in municipal apartments. The refugees enjoy financial support to cover the rent and partially the monthly utilities.

21. In 2017, a number of works has been undertaken to improve the material conditions in the reception centres and facilities for cultural and educational activities and to adapt the existing infrastructure, in order to create an accessible environment for people with disabilities.

22. In 2016, a National expert group was formed in Bulgaria on alternatives to detention of citizens of third countries. It is will prepare two final documents – recommendations to the system for administrative detention of citizens of third countries, and a draft amending and supplementing the national legislation regarding the procedure and the alternatives to detention of citizens of third countries.

23. The asylum seekers in the centres have access to free legal assistance from the moment of their accommodation and their right to access to justice is fully guaranteed and secured.

(f) Integration efforts — housing, language training and effective implementation of the 2015 National Strategy on Migration, Asylum and Integration

24. In 2015, the Bulgarian Government adopted a **National Strategy on Migration, Asylum and Integration for the period 2015–2020**. It is aimed at creating a comprehensive and stable legal and institutional framework for the proper governance of legal migration and for the prevention of illegal migration, for integration of and care for the persons seeking international protection, and those who have been granted asylum or refugee status in Bulgaria.

25. In July 2017, an **Ordinance on the Conditions and Procedure for Concluding, Implementing and Terminating the Agreement on the Integration of Foreigners with Granted Asylum or International Protection** was adopted.

26. The Ordinance aims at creating conditions for the successful integration of foreigners with asylum or international protection in the Bulgarian society by providing a wide range of services and activities. Its adoption facilitated the fulfilment of the functions of the competent institutions deriving from the Bulgarian legislation regarding the integration of foreigners with granted asylum or international protection. The functions of the competent authorities and institutions are regulated in detail at national and local level.

27. For the first time in the Bulgarian legislation, the Ordinance introduces indicators, which will make a more effective assessment of the integration process. The indicators aim to assess to what extent foreigners granted asylum or international protection have access to education, training, employment, housing, health and social assistance and social services.

28. To assess the performance of the indicators, the competent institutions will collect information on the number of children enrolled in kindergartens and schools, foreigners enrolled in higher education institutions, foreigners who have started work, etc.

29. According to the Ordinance, the integration process starts with the conclusion of an integration agreement, on which the mayor of the respective municipality and the foreigner with granted asylum or international protection voluntarily declare their wish. The agreement should include specific integration activities in relation to education, employment, training, housing, health and social assistance and social services. The

Ordinance provides for the collection of information on progress at each stage of the integration process. In this respect, there is an integration booklet, in which each of the institutions involved in the integration process can note the results of the activities carried out. The Ordinance regulates the coordination and control over the implementation of the Integration Agreement, to be implemented by a Deputy Prime Minister assisted by the administration of the Council of Ministers of the Republic of Bulgaria.

30. The responsibilities of the mayor of the municipality, which result from the agreement for integration, are clearly regulated. The Ordinance exhaustively defines also the scope of the obligations of the foreigner with the granted asylum or international protection. It is envisaged, that he may object to the regional governor in the event of partial or total non-performance of the agreement by the mayor of the municipality.

31. The foreigners with asylum or international protection enjoy the same rights as Bulgarian citizens do, except for the right for which Bulgarian citizenship is required by law. Consequently, they have also equal rights for social assistance and provision of social services. In accordance with the Social Assistance Act and its implementing rules, they may receive monthly and one-time allowances as follows: monthly targeted assistance for renting community housing; targeted help for heating during the heating season; one-off help for health, education, communal and other vital needs; one-time targeted assistance for issuing an identity card; additional funds if the person's previous month's income is lower than a certain differentiated minimum income, etc.

32. Language training continues to be provided on a regular basis. With the assistance of the Caritas Bulgaria NGO, language trainings are held twice a week in English and Bulgarian languages for all foreigners accommodated in the Reception centres.

33. In view of the initial adaptation of foreign minor asylum seekers, the SAR is working in partnership with a wide range of NGOs to provide Bulgarian language courses at its registration and reception centres. The objectives of the Bulgarian language education are aimed at literacy, building of learning habits, learning spoken Bulgarian language, mastering the written Bulgarian language and development of skills for understanding and communication. Providing full access to the education system to all minors and underage children who have been granted international protection is carried out under the same conditions as for Bulgarian citizens.